UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1992/SR.44
10 April 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 44th MEETING (FIRST PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 26 February 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

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* The summary record of the second part of the meeting appears as document E/CN.4/1992/SR.44/Add.1.

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GE.92-11233/4400B

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The meeting was called to order at 3.25 p.m.

STATEMENT BY MRS. ESPIN DE CASTRO, MEMBER OF THE COUNCIL OF STATE OF THE REPUBLIC OF CUBA AND CHAIRPERSON OF THE COMMISSION ON THE AFFAIRS OF WOMEN, YOUNG PEOPLE AND CHILDREN OF THE NATIONAL ASSEMBLY OF PEOPLE'S POWER

1. Mrs. ESPIN DE CASTRO (Member of the Council of State of the Republic of Cuba and Chairperson of the Commission on the Affairs of Women, Young People and Children of the National Assembly of People's Power) said that the central theme of her statement would be the situation of women and children throughout the world. She recalled that the international community had focused particular attention on women on the occasion of the Conference of the International Women's Year, held in Mexico in 1975. The Conference made made it possible to establish that at that time there were many countries in which women did not exercise their fundamental rights, and had vividly highlighted the related problem of the rights of children.

2. Non-governmental organizations were currently drawing the attention of Governments and of international organizations to the seriousness of the situation of children and underscoring that the rights to health, to safety and to life were far from being achieved in many regions of the world. The desperate living conditions of children in the underdeveloped and the developing countries, and increasingly those of children in the developed countries, were deplorable. The Commission on Human Rights should not remain impassive towards such horrifying practices as the sale of children, the traffic in children's organs, child murders by military groups and the exploitation of children in the drug trade.

3. In Cuba, when the people had taken power 33 years previously, the authorities' first concern had been to improve the living conditions of families, women and children. Cuba had not been rich, but its leaders had been determined to give priority to those members of the population. Women had played a major role within social organizations in implementing a policy designed to bring equality, health and access to education to all. In destitute rural regions, hospitals and schools had been established. The new Government had taught people how to read and write, appointed schoolteachers and trained doctors. Women had played a considerable role in that undertaking, and had reaped its benefits. The many years of work had now borne fruit: there were enough teachers and doctors; the cultural level of the population had improved; scientists of merit, many of whom were women, made a considerable contribution to the country's economy, particularly in certain sectors such as pharmaceutics; in addition, health and education specialists offered their assistance to kindred peoples in the developing countries. The success of the Government of Cuba in the areas of health and education was recognized by international organizations.

4. The Summit for the Economic Advancement of Rural Women, attended by the wives of Heads of State, officials from international agencies and rural women, had recently been held at the Palais des Nations. Speakers had naturally emphasized the difference between the circumstances of rural women in the underdeveloped countries and those of women in the developed countries, buffeted by the economic crisis. All of them had stressed the role played by

women in the economic development of the third world. An analysis had been made of potential measures in each country to improve living conditions in the areas of health and education. Debt was a heavy burden for many States, particularly in Latin America. Some countries which had once been developed and economically self-sufficient had become impoverished, and a large proportion of their population lived in poverty and even hunger. Poverty engendered violence. In Latin America the situation of women and children was desperate and ever-worsening.

5. In Cuba, by contrast, the population was reaping the benefits of over 30 years' effort in the spheres of development, education and health. Economic circumstances were certainly difficult on account of the blockade imposed by the United States and the loss of the support provided by the former socialist countries. Nevertheless, the people strove in unison to overcome difficulties. New spheres of activity were developed: in particular, major efforts were being made to develop the pharmaceutical sector, already mentioned, and to promote tourism, as Cuba could offer tourists peaceful and unpolluted sites. In Brazil and elsewhere a vast campaign of solidarity with Cuba was under way, because of the widespread recognition that Cuba offered its citizens decent living conditions.

6. In many countries ecological problems compounded purely economic difficulties. Water was either lacking or polluted. Forests were devastated. Rural women in developing countries were the first to experience the consequences of environmental degradation in their daily lives. The United Nations Conference on Environment and Development, due to take place at Rio de Janeiro in 1992, would have to address the serious problem of the shortage of water and of wood in certain regions of the world and to determine the responsibility of Governments, transnational agencies and international organizations. It would have to find solutions to all the problems that so dramatically affected the lives of families, women and children.

7. Voices in some spheres expressed satisfaction at the disappearance of the threat of a nuclear catastrophe and claimed that the world was entering a new era that heralded a better future. However, she asked what hope there was for women who could not even feed and care for their children. Much had been said about the nuclear threat, but hunger throughout the world, poverty, denial of basic health care and of access to education were more than a threat, they were a daily reality in the lives of millions of people. She asked why cholera, which had virtually disappeared, was once again taking its toll of human lives in Latin America. The resurgence of that disease, which was nothing other than the disease of poverty, testified to the negligence of the authorities, which had failed in their social duty. It was impossible to accept that the fundamental rights of women and children, their right to life, equal treatment, health and education, should be disregarded on such a scale. She asked how the international community could remain unmoved by the fact that thousands of children were murdered, that thousands of children were driven into prostitution and into the drug trade. How was it possible for there to be such a monstrous trade in children's organs and to remain inactive in the face of such dramatic human rights violations?

8. Unless something was done to solve the problems facing men, women and children in the developing countries and those in the developed countries buffeted by the economic crisis, new political upheavals and other outbreaks of violence would occur. The time had come for the international organizations, and for the Commission on Human Rights in particular, to reject rhetoric and to speak clearly and honestly about the real world. The time had come to highlight the responsibilities of States and of international organizations for the deterioration of living conditions on earth. The non-governmental organizations had a vital role to play in denouncing serious violations of rights and proposing solutions. Sustained by the world's vast wealth and by mankind's huge scientific potential, the international community could launch a campaign to secure better living conditions for all those whose rights were flouted, and in particular for children, who represented the world's future.

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN

(c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR

(d) DRAFT PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY (agenda item 22) (continued)

(E/CN.4/1992/45, 54, 55 and Add.1, 71 and 74; E/CN.4/1992/NGO/5, 14 and 32; E/CN.4/1991/51; E/CN.4/Sub.2/1991/41 and Corr.1; CRC/C/7)

9. Mr. MARTENSON (Under-Secretary-General for Human Rights) said that the defence of human rights had to begin with the defence of the rights of children. According to UNICEF and other international organizations, millions of children lived in poverty, slavery or prostitution, or even worse were kidnapped, tortured or executed, with blatant disregard for international legal standards. Millions of children suffered from discrimination or under foreign occupation, or were victimized because they belonged to minorities or to indigenous peoples, or because their parents were migrant workers.

10. It was to improve their lot that in 1989 the United Nations had adopted the Convention on the Rights of the Child, to which 109 States were now parties, and which had been signed by a further 34. Those remarkable figures were a sign of the widespread commitment to the rights of the child and underscored the expectations placed in the 10 members of the Committee on the Rights of the Child.

11. In recent years, the worsening phenomenon of the sale of children and of child prostitution had led the Working Group on Contemporary Forms of Slavery to recommend the appointment of a special rapporteur to examine the issue. As requested by the Commission in 1990, the Special Rapporteur, Mr. Muntarbhorn, would be introducing his report on the question (E/CN.4/1992/55 and Add.1). The Commission also had before it the draft programme of action for the

elimination of the exploitation of child labour, prepared in 1989 by the Working Group on Contemporary Forms of Slavery and reformulated by the Sub-Commission at its previous session, following the World Summit for Children, and in the light of opinions expressed by Governments, specialized agencies and intergovernmental and non-governmental organizations. Although slavery was universally proscribed, the poorest and most vulnerable social groups - and first and foremost children - continued to be the victims of slavery-like practices, such as forced labour, child prostitution, the sale of children or the sale of human organs. As all those forms of exploitation of child labour continued despite national and international norms, the Working Group on Contemporary Forms of Slavery and the Sub-Commission had proposed to the Commission the adoption of a programme of action for the elimination of the exploitation of child labour. At its current session, the Commission had before it the analytical summary of the replies received on the question from Governments, specialized agencies and intergovernmental and non-governmental organizations (E/CN.4/1992/45).

12. The efforts of the League of Nations had led to the adoption, in 1921, of the International Convention for the Suppression of the Traffic in Women and Children. In 1949, the General Assembly of the United Nations had in turn adopted the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, on the grounds that such practices were "incompatible with the dignity and worth of the human person" and that they endangered "the welfare of the individual, the family and the community". At its previous session, the Working Group on Contemporary Forms of Slavery had drafted a programme of action on that topic and a number of non-governmental organizations had recently suggested the drafting and adoption of a new convention against sexual exploitation, which would take into account contemporary circumstances and would possess more effective implementation machinery.

13. The importance of the family, which had already been recognized in the Universal Declaration of Human Rights, had been consecrated in 1989 by the General Assembly when it had decided to declare 1994 International Year of the Family. As a contribution to that important decision, the Commission could organize a symposium attended by representatives of human rights bodies, United Nations specialized agencies and non-governmental organizations to identify factors which, in the context of the family, could be used to improve the enjoyment of human rights. In conclusion, he expressed his conviction that as in the past, a spirit of cooperation would mark the debates on the question of the rights of the child.

14. Mr. MUNTARBHORN (Special Rapporteur on the Sale of Children), introducing his report (E/CN.4/1992/55 and Add.1), said that the study focused on three major problems: the sale of children - including adoption, the exploitation of child labour and organ transplantation - child prostitution and child pornography. In order satisfactorily to complete the task, a four-pronged approach had been adopted. First, documentary and verbal information had been obtained from both governmental and non-governmental sources. Second, a questionnaire had been sent to a broad range of countries, non-governmental organizations and concerned individuals. Third, the Special Rapporteur had visited Brazil and the Netherlands to study the situation in both countries.

Fourth, the means of assisting the victims of violations of the rights covered by the Special Rapporteur's mandate had been examined. From the outset it was necessary to point out that information was often lacking, or if available, it was unreliable for lack of national and international solidarity. For example, in order better to grasp the problem of child prostitution or the sale of children, all parties concerned should practise openness, in the best interests of children. Greater cooperation was also required in replying to the questionnaire.

15. The phenomenon of adoption for commercial purposes had become an international one, above all since the 1950s, as a result of the arrival in the developed countries of increasing numbers of children from the developing countries. It was certain that in some countries, shortcomings in the adoption procedure and the absence of an efficient central authority opened the way for abuse. It was nevertheless questionable whether that was sufficient reason to compel potential adoptive parents to utilize only official channels, or whether they should be allowed to act on their own initiative, occasionally with the assistance of unauthorized intermediaries. Many States had realized the incompatibility between adoptive parents and children and the absence of post-adoption follow-up, and had recently attempted better to protect children. However, legislation was not always sufficient to prevent abuse, particularly when law enforcement was wanting, or when children were abducted or disappeared to be sold. There was no doubt that a satisfactory development strategy that would improve the quality of life of citizens would allow parents to keep their children.

16. In order to combat the sale of children for commercial purposes, the international community could avail itself of the Convention on the Rights of the Child, the draft programme of action for the prevention of the sale of children, child prostitution and child pornography proposed by the Sub-Commission and the draft international convention on intercountry adoptions. Each country could designate an authority to ensure coordination with other States, to accredit only those intermediary organizations which could prove that they were non-profit-making and to reach agreements with other States on the mutual recognition of adoptions.

17. The exploitation of child labour had to be opposed not so much because it was detrimental to children - it was not necessarily so - but because the labour, and thus the child providing the labour, should not become an item of property in the hands of a third party with little concern for the development and the rights of the child. He referred the members of the Commission to the wealth of literature published on the subject by the International Labour Organisation and focused his own attention on the close relationship between the sale of children and the exploitation of child labour. During 1990-1991 he had been able to find many cases of debt bondage in which parents pledged their children in payment of debts. He had also found that the question of child labour in the informal sector was extremely disturbing in the developing countries, as well as in a number of major developed countries, and that the children of migrant workers and of certain ethnic groups were particularly vulnerable.

18. He said that there were laws in all countries to regulate or prohibit child labour, but they were not always strictly applied. It was thus necessary to help children and their families by other means, such as education, family protection and the struggle against unemployment. In that area too, inspiration could be found in the Convention on the Rights of the Child and in the Sub-Commission's draft programme of action, as well as in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

19. However, the most sensitive issue with regard to the sale of children was that of human organ transplants. The practice was a form of physical exploitation of children who were victims o the imbalance between the developing and the developed countries. The unsatisfied demand for human organs perhaps accounted for some child abductions or disappearances. WHO had already formulated its Guiding Principles on Human Organ Transplantation, which included the principle that organs should only be removed in exceptional cases from the body of a living minor for the purpose of transplantation. States were indeed beginning to legislate on the issue, but it remained extremely difficult to pinpoint irrefutable cases in which the offence had been committed and it was difficult clearly to define the situation. The need for transparency called for closer cooperation between law-enforcement agencies, medical authorities and other entities at both the national and international levels.

20. It was also necessary to address the question of child soldiers and of abducted children, which he had not considered when he had prepared his questionnaire. With regard to child soldiers, whose situation was linked to the armed conflicts raging in various parts of the world, the problem was partly connected with the fact that the age of conscription varied between 15 and 18 depending on the country. In practice, much younger children were to be found as soldiers. The various pronouncements by the international community on the question were not sufficient: it was also necessary to discuss with the representatives of the military authorities. In his view, the age of conscription should not be less than 18, the age below which a human being was considered to be a child for the purposes of the Convention on the Rights of the Child.

21. With reference to abductions, in 1991 an international ring abducting children from Eastern European countries, apparently to sell them for adoption, had been discovered. Although that practice was completely illegal, it could only be truly curbed by greater international cooperation, not only to restrict supply and demand, but also to promote punishment and to encourage social and economic measures to help children and their families. It was also necessary to establish data banks and tracing services.

22. As for child prostitution, it too was largely attributable to the economic circumstances of certain sectors of the population in the developing countries and to the demand in the developed countries. Criminal elements had taken advantage of that situation and acted as intermediaries. Clients were opting more and more for young prostitutes in order to protect themselves against AIDS, and the victims of the traffic were increasingly young as a result of which prices were spiralling. In that sphere too, there were laws

in most countries under which pimps and customers could be arrested. However, there had to be the will to implement them and, even more important, the industry in which prostitution was developing should be pressured to compel it to act less tolerantly. It was all the more difficult to improve the situation because the trade and traffic in children was international. In addition to abductions, there were also instances of false identity cards and false marriages. Tourism, and particularly sexual tourism, further increased the impact of such transcontinental prostitution, in which clients went to seek the supply in its place of origin, or prostitutes travelled to the clients' countries. Moreover, certain cultural factors could favour prostitution, particularly the prostitution of girls among whom the number of AIDS victims was rising, and who as a result became the victims of the additional injustices that afflicted AIDS victims. Yet again, there were national laws, plans and programmes on prostitution, but a huge gap existed between law and practice. The effective implementation of the Convention on the Rights of the Child and of the programme of action proposed by the Sub-Commission would be valuable in tackling the root problem. Punishment, information, education, social services, rehabilitation, aid for victims and international coordination, especially with INTERPOL, were all indispensable elements of the struggle against the scourge of child prostitution.

23. Turning to child pornography, he explained that it too was partly attributable to economic factors and to the decline of the family as well as to the exploitation of children by criminal elements. The problem had become more intractable since it had become possible for pornography to make use of computers, videos and telephones. Pornographic materials were already rampant in some societies, but the problem had become worse since sexual tourism had encouraged pornographic performances. As always, most countries had laws to deal with pornography, and particularly with child pornography, but the offence was difficult to prove. In some jurisdictions, it was necessary to prove that the material concerned was obscene. It was not clear whether that requirement meant that the material was intended to deprave and corrupt. Nor was it clear how that intention could be objectively proved. A related question was whether the users or possessors of such material should be prosecuted as well as those who distributed and produced it. Although there was no unanimity on that issue, he was in favour of such an interpretation. He also underscored the worldwide nature of the phenomenon. Child pornography stretched beyond the borders of States and even of continents, and although the developed countries were the largest consumers of pornographic material involving children, the traffic affected children in the developing countries.

24. He again called for the implementation of the Convention on the Rights of the Child and of the programme of action proposed by the Sub-Commission, which called for interdisciplinary measures and advocated the prosecution of those who exploited child pornography. In his conclusions, he first of all emphasized the multifaceted role of the Commission. The Commission should encourage an interdisciplinary approach, the integration of strategies, prevention and the adoption of corrective measures. To that end, it should help States or the appropriate agencies to introduce, implement and assess the desired laws, policies and programmes of action; promote community information activities on the rights of the child; monitor the national and international situation, particularly in cooperation with INTERPOL; support national

correspondants responsible for the rights of the child; and, lastly, coordinate international action while maintaining contact with States and with the competent agencies, including those in the private sector, to achieve efficient use of the funds allocated to the area. Lastly, he read out the key elements in each of his specific recommendations, contained in paragraphs 301-331 of his report.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT (agenda item 12) (continued)

(E/CN.4/1992/3, 4, 25, 26, 27 and Corr.1, 28 and Add.1, 29, 30 and Add.1, 31-37, 60 (S/23212), 64, 67, 68 and 72; E/CN.4/1992/CRP.1 and 2; E/CN.4/1992/NGO/2, 5, 10, 11, 13, 19, 24 and 34; E/CN.4/1991/24, 27-31, 33 and Add.1, 34-36; A/46/446, 529, 542, 544 and Corr.1, 606 and 647)

25. Mr. FREDERICK (Service, Peace and Justice in Latin America) said that there was reason to doubt the statement by the Minister for Foreign Affairs of Peru, according to which human rights violations in Peru were not part of a systematic policy, but merely isolated abuses. According to the Working Group on Enforced or Involuntary Disappearances, for six years Peru had ranked first or second in the world for the number of disappeared persons. Human rights were violated with complete impunity in Peru. Three months previously, in Lima, 17 people had been murdered in cold blood during a festival held in the vicinity of an office of the intelligence services. The murderers had apparently acted on the pretext that subversive elements were among the participants; they had so far remained unpunished.

26. Human rights organizations in Latin America, and in Peru in particular, rejected all forms of terrorism. They condemned the crimes committed by Sendero Luminoso, 80 per cent of whose victims were unarmed civilians, such as Mrs. Elena Moyano, the courageous leader of a grass-roots organization who had been murdered a few days previously.

27. Peru's successive Governments had not demonstrated any particular desire to establish efficient machinery to protect human rights. They had been partly responsible for the serious and systematic violations that had occurred in Peru. The Government of Peru was hypocritical about non-governmental organizations campaigning for the protection of human rights. While the Minister for Foreign Affairs asserted that the Government attached the greatest importance to them, the President of the Republic described them as "useful cretins" or as "the legal arm of subversion". Service, Peace and Justice in Latin America urgently requested the Commission to give close consideration to the situation in Peru and, as appropriate, to appoint a special rapporteur on the issue. A further statement would be made by his colleague, Mrs. Mack.

28. Mrs. MACK (Service, Peace and Justice in Latin America) said that she was the sister of Myrna Mack, the anthropologist who had been murdered on 11 September 1990 as she left her office in the centre of Guatemala City. For over two years her sister had been carrying out a study into the indigenous populations in the areas of Quiché and of Verapaces, and had gathered considerable evidence of the manifold human rights violations suffered by those populations. Her murderers had stolen all her working documents. As usual, those responsible for the crime had remained unpunished. The investigation initiated as a result of pressure from the international community had made it possible to identify the suspected culprit, an officer in the armed forces. However, the very progress of the investigation had again demonstrated how the State could at one and the same time be the accomplice and victim of the armed forces. Thus, all the essential elements had been removed from the police report; the police inspector who had carried out the investigation, Mr. Mérida Escobar, had been murdered. All the evidence demonstrating the political nature of the murder had been mislaid. The normal course of justice was paralysed because judges were afraid. The procedure dragged on and it had been impossible to carry out a thorough investigation. To cap it all, a judge had gone so far as to accuse the human rights organizations of murdering Inspector Mérida Escobar. The judge appointed to deal with the case had refused to investigate, and had finally referred it to the military courts, although it did not come within their jurisdiction. The coming to power of President Jorge Serrano and the international campaign organized by Myrna Mack's friends and relatives had made it possible to arrest the suspected culprit, who had been living unlawfully in the United States. Since then, however, the army had refused to cooperate and had done its utmost to cover up for the other culprits. Journalists, magistrates and witnesses had been threatened in order to prevent the investigation from progressing. The wall of impunity prevented the rule of law from prevailing in Guatemala and the death-dealing machinery remained untouched. She urged the Commission to intensify international pressure on the Government of Guatemala and to appoint a special rapporteur fully to elucidate her sister's murder.

29. Mr. RAUZI (International Federation of ACAT (Action of Christians for the Abolition of Torture), IFACAT) described the human rights situation in Indonesia and said that the Government of Indonesia itself had acknowledged that a "security approach" had hitherto prevailed in the administration of the country. Thus, under the so-called defence law ("UU Pertahanan") and the "Hankamnas" concept, the entire country had been under virtual military rule whose aim had been to repress the slightest disorder or rebellion. Those principles had made possible all types of gross human rights violations, including disappearances, extrajudicial executions, arbitrary arrests and large-scale use of torture. The Indonesian armed forces, with their obsession for stability and order, routinely used torture to maintain them. Torture was frequently practised in front of witnesses so as to intimidate the population and had intensified since the appearance, three years previously, of a powerful liberation movement in Aceh. Torture was also frequently employed to force prisoners to confess, in spite of being specifically prohibited by the Indonesian Code of Criminal Procedure. Virtually all prisoners in Aceh had been tortured.

30. Many people were unlawfully detained and were denied a fair trial. Only a small minority of the people arrested appeared before the courts; most of them were released after a brutal interrogation, accompanied by threats against their family, and obliged to sign a statement of allegiance to the Government. Those measures, which were designed to discourage any kind of political involvement, were essentially applied in the trouble spots: Aceh, East Timor and West Papua.

31. As Professor Kooijmans, the United Nations Special Rapporteur on questions relevant to torture, had emphasized in his report (E/CN.4/1992/17/Add.1), those human rights violations sprang from the virtually unlimited and unbridled power of the police. As Mr. Kooijmans explained, the police had complete control over detainees during the first 20 days of detention. Mr. Kooijmans had met people who had been imprisoned for over 10 years without ever having been able to consult a lawyer. It was unfortunate that the Special Rapporteur had been unable to visit Aceh to see for himself the seriousness of the human rights violations committed there. There was an urgent need for Professor Kooijmans' recommendations regarding the conditions of detention and trial of detainees to be implemented, and in view of the seriousness of the situation, the International Federation Action of Christians for the Abolition of Torture urged the Commission to appoint a Special Rapporteur on Indonesia.

32. Mr. TEWARI (International Union of Students, (IUS)) protested against the Government of the Czech and Slovak Federal Republic's prohibition on his association maintaining its headquarters in Czechoslovakia and operating there, on the grounds that it had collaborated with the previous totalitarian regime. There were no grounds for such charges. The only "crime" committed by IUS had been to defend the interests of students. The decision of the Czechoslovak Government was a blatant violation of the right to freedom of opinion, expression and association, and IUS urged the Commission to intercede to persuade the Government to reverse its decision.

33. Mr. EYA-NCHAMA (African Association of Education for Development) said that if Equatorial Guinea had become a party to the African Charter on Human and People's Rights, as well as to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocol, it was because it had wished to placate international public opinion rather than effectively to protect human rights in Equatorial Guinea. In actual fact, the country's inhabitants were the hostages of Obiang Nguema, de facto President, and of Prime Minister Silvestre Siale. Like the two lawyers who had been unable to take up the invitation from the Barcelona Bar Council, they were not allowed to leave their country; members of the opposition lived in hiding or in exile and the Act liberalizing political activity remained a dead letter. Under that Act, parties that wished to be recognized by law were required to deposit a $165,000 bond and to submit a full list of all their members, together with their identity cards. However, the civil governors of the provinces were still empowered to dissolve any party which they deemed to jeopardize public order; moreover, the 40 members of the Central Committee of the Popular Union Party, whose names had been on the list sent to obtain legal recognition for the party, had been arrested. The Act constituted a violation of article 20 of the Universal Declaration of Human Rights, as well as of article 8 of the International Covenant on Economic, Social and Cultural Rights and article 22 of the International Covenant on Civil and Political Rights.

34. There was no privacy in Equatorial Guinea: all correspondence was screened by the law-enforcement services and on 9 February 1992 two people had been arrested for having sent a letter classified as "subversive". The press, for its part, could in no way be described as free. Thus, the publication of the most recent issue of La Verdad, the newspaper of the clandestine opposition, had been followed throughout the country by arbitrary arrests that had compelled a number of opponents to seek refuge with the United Nations in Malabo or in the United States Embassy. Intercession by the representative of the United Nations and by the United States Ambassador in Equatorial Guinea had been necessary to put an end to the repression.

35. Despite intercession by the international community, the regime continued to violate human rights, particularly by using torture. For further information, he referred the members of the Commission to the report of Professor Volio Jiménez (E/CN.4/1992/51) and especially to its paragraph 60, as well as to paragraphs 99-106. He recalled that between 1979 and 1985, the question of human rights violations in Equatorial Guinea had been examined under item 12 of the Commission's agenda. In the belief that the situation had improved, the Commission had decided to consider it under the item on advisory services in the field of human rights. In fact, as Professor Volio Jiménez's report showed, the situation had worsened, and it was appropriate for it again to be considered under agenda item 12.

36. Mr. MENDOZA (Observer for El Salvador) said that, when the Special Representative of the Commission for El Salvador, Mr. Pastor Ridruejo, had presented his final report on the situation in El Salvador (E/CN.4/1992/32), he had hailed the dawn of a new era of respect for human rights. The new situation in El Salvador, whose foundations had been laid during the 1980s, mirrored the worldwide human rights revolution to which the Under-Secretary-General for Human Rights had referred at the opening of the session.

37. The Final Agreement reached in New York on 31 December 1991 was the culmination of a peace process involving the Salvadorian Government and the Frente Farabundo Martí para la Liberación National (FMLN) that had begun in 1989, and had initially been inspired by the peace agreements reached in Central America, and in particular by the Declaration of San Isidro de Coronado (Costa Rica). Subsequently, the agreement reached at Geneva on 4 April 1990, in which the Secretary-General of the United Nations had offered his good offices, pursuant to Security Council resolution 637 (1989), which proposed to put an end to the armed conflict and to promote democratization, had opened the way to a series of negotiations based on a schedule adopted at Caracas in May 1990. The Mexico negotiations, in April 1991, had led to proposals for fundamental constitutional reforms in the human rights field, in the electoral and judicial spheres and with regard to the armed forces. It had also been decided to establish a Truth Commission. The proposed reforms had been approved by the Salvadorian Legislative Assembly.

38. The United Nations Observer Mission in El Salvador (ONUSAL), which the Security Council had entrusted with ensuring respect for human rights in El Salvador, had taken up its duties in July 1991. When the ongoing process had appeared to slow down, after June 1991, the Secretary-General of the

United Nations had decided to act in person. The New York Accord, which had finally been reached in September 1991, had in particular provided for the establishment of the National Commission for Consolidation of Peace (COPAZ), responsible for monitoring the implementation of all the political agreements reached by the parties. Finally, on 31 December 1991, the Salvadorian Government and FMLN had signed the New York Agreement, which provided for the final cessation of the armed confrontation as from 1 February 1992.

39. However, by solely contrasting on the one hand the negotiations and on the other the day-to-day human rights situation in El Salvador, as the Special Representative had done, the process of democratization under way was concealed - six electoral exercises were currently being prepared - as were the efforts by the Presidents of the countries of Central America on behalf of peace, in the spirit of the Esquipulas II Agreements. It should also be noted that the National Commission for the Consolidation of Peace (COPAZ) comprised two Government representatives, two representatives of the Frente Farabundo Martí and representatives of various political parties, as well as representatives of the Archbishop of San Salvador and a representative of ONUSAL. The establishment of the Commission had been approved by the Salvadorian Legislative Assembly, which had firmly committed itself to implementing the agreements. On 11 September 1991, the Legislative Assembly had also approved the creation of the position of National Human Rights Ombudsman, which would shortly be filled by the Assembly. The implementation of all the peace agreements, and not only those affecting human rights, would be monitored - as already been seen - by ONUSAL under the supervision of the United Nations Secretary-General. In his statement, the Special Representative had rightly emphasized that the Commission had reason to be satisfied with the results achieved. As in the past, the Government of El Salvador would continue to cooperate with it, in whatever form necessary.

40. Mr. TABATABAEI (Islamic Republic of Iran) said that the new report before the Commission on the human rights situation in the Islamic Republic of Iran (E/CN.4/1992/34) had been prepared after the Special Representative's third visit to Iran, in which he had been able freely to discuss with Government officials and private individuals chosen by him and to collect information on the measures adopted pursuant to his earlier recommendations. The report clearly showed that there had been marked and demonstrable progress in the promotion and protection of human rights in Iran. The main problems identified by Mr. Galindo Pohl were in actual fact connected with procedural issues, with the exception of what he described as "the excessively high number of executions", which was largely attributable to the high number of death sentences passed against drug traffickers. Deprivation of life, that precious gift of the Almighty, was undoubtedly the most severe measure that a State could adopt, and it could only do so under exceptional circumstances. However, it should be borne in mind that Iran's geographical position placed it on the principal drug route between Asia and Europe. The drug traffickers, those merchants of death, attracted by the profitable European markets, crossed Iran in convoys of heavily armed armoured vehicles, occasionally escorted by helicopters, and distributed large quantities of their mortal merchandise along their way, thus causing a rise in drug addiction, crime, violence and terrorism. The Government of Iran had adopted measures to put an end to drug production in Iran, in particular by prohibiting poppy cultivation

and replacing it with other crops, and had set up vast information and re-education programmes to check the development of drug addiction, thereby incurring the wrath of the international drug traffickers who had declared war on Iran and who frequently launched full-scale attacks against the Iranian armed forces, which claimed many victims on both sides. In order to tackle that awesome situation, the Government of Iran had itself been compelled to adopt drastic, albeit temporary measures, including deterrent measures designed to impress people, a fact which Mr. Galindo Pohl had perhaps not fully grasped. The struggle against the drug traffickers was beginning to bear fruit, and it was to be hoped that the problem would shortly be solved. Nevertheless, the Government of Iran was prepared to examine any other viable solution that might be proposed to it, as a means of putting an end to that threatening scourge while preserving as many lives as possible.

41. Closer reading of the report would show that a large number of the recommendations made by the Special Representative had been implemented, either partly or in full, or were in the process of implementation. Despite that, each section of chapter IV of the report concluded with an unfounded negative remark that sometimes even ran counter to the report as a whole, and gave the impression that the progress made was insufficient. Such was the case, for example, of the recommendation relating to legislative and administrative reforms (paras. 415-418), which, as everyone knew, required lengthy preparation. It was common knowledge that a bill could not be adopted by Parliament and become law overnight. Nevertheless, the Government of Iran had taken those recommendations extremely seriously; thus, a number of laws that took them into account had been adopted within a year, which was proof of the Government's desire and determination to cooperate with the Special Representative of the Commission on Human Rights. However, the latter preferred to ignore that desire. With regard to the eleventh recommendation, concerning compensation to persons or families affected by violations of human rights, rather than expressing his gratification that a penal law bill providing for moral and material compensation was being prepared, the Special Representative merely said that he was unaware when the bill would become law and come into force, and what its contents were, disregarding the fact that the Government was not in a position to adopt such decisions on behalf of Parliament (para. 455). He thus cast doubt on the progress achieved by disregarding manifest realities. Even when a recommendation, such as the ninth recommendation, had been implemented in full (para. 450), the Special Representative made subjective remarks to cast doubt on the fact; thus, after having recognized that books no longer required prior authorization, he spoke of self-censorship among artists and writers, thereby insinuating that from a substantive angle, the recommendation had not really been put into effect (para. 451). The same was true of the thirteenth recommendation, concerning the bringing to trial of agents and officials guilty of human rights violations. Nine officials had been tried for such acts during the previous year, but the Special Representative nevertheless reproached the Government for having failed to inform him of cases of abuse of authority or violations of human rights committed by other officials and agents, thereby implying that such acts had occurred (para. 461). Regarding the sixth recommendation on the rules of due process of law, and in particular the right of accused persons to the assistance of a lawyer (para. 428), the Special Representative completely disregarded the Act of 1991 whereby all trials that had taken place in the

absence of a lawyer had been declared null, and justified the conclusion that no progress had been made by invoking, inter alia, a semantic argument (para. 440) which actually revealed a misunderstanding of the Persian term "vakil" which signified defence lawyer, as well as of the relevant legislative process. Moreover, while commending the agreement reached between the Government of Iran and ICRC relating to prison visits in Iran, the Special Representative struck a gloomy note by specifying that such agreements could neither be amended, suspended nor cancelled ad libitum by countries that had entered into them (para. 446). Lastly, despite recognizing that the Government of Iran had adopted extensive measures of clemency on behalf of prisoners, in line with his recommendation, the Special Representative had preferred to conclude the relevant paragraph of his report on a negative note, by emphasizing that he had still not received the information requested concerning the persons who had benefited from such measures, thus playing down the impact of the action by the Government of Iran (para. 464).

42. Chapter IV as a whole was thus drafted so as to give the impression that no appreciable progress had been achieved in implementing the Special Representative's recommendations. It was easy to understand why, if it was recalled that at its forty-seventh session, in resolution 1991/82, the Commission had decided to discontinue the mandate of the Special Representative if there was further progress achieved regarding his recommendations. The Government of Iran remained convinced that the human rights situation in Iran did not justify the maintenance of monitoring by the Commission in its current form. In actual fact, the myth of a consistent pattern of gross violations of human rights in Iran had been completely dispelled and there was no longer any justification for the monitoring machinery to which it had given rise. His delegation would continue to report any fundamental shortcomings that might appear in that regard, with the frankness that had marked its constant, sincere and constructive cooperation with the Commission, in the genuine hope that it would help to achieve a more productive and principled approach to the universal protection of human rights and fundamental freedoms.

43. Mr. GADGIL (India) noted that the Commission on Human Rights was meeting at a time when increasing stress was being placed on democracy, human rights and the rule of law. It was true that the progressive realization of democracy and of the corresponding forms of government in many regions of the world enhanced respect for human rights. Every democratically elected Government was first and foremost responsible for the welfare of its own people, and its international obligations should not take precedence over its constitutional responsibilities to them. It was for each State Member of the United Nations, in exercise of its sovereignty and in conformity with the obligations arising from the Charter of the United Nations, to accede to international human rights instruments, but the international community was not entitled to violate the principle of sovereignty enshrined in the Charter in the name of implementing human rights conventions. True, the mission of the international organizations was to ensure that States complied with their freely contracted obligations and to contribute to the creation of conditions conducive to the effective enjoyment of all human rights. However, his delegation did not believe that threats or sanctions were the best way to achieve that.

44. It was important to remember that the content and nature of human rights were conditioned by the social, traditional and cultural forces that shaped the different societies. Respect for human rights and fundamental freedoms was an evolving process that was rarely smooth, often slow and sometimes painful. The Commission should be characterized by compassion, tolerance and patience rather than by anger, hatred or arrogance, and its tools should be persuasion, assistance and incentive rather than punishment or sanctions. Progress in implementing the International Bill of Human Rights could only come through an understanding of the context in which alleged violations might have taken place. For that reason, his delegation could not accept the selectiveness that was apparent in the human rights sphere, whether in the attention devoted to certain categories of rights or in the consideration of particular situations in which human rights had been violated. No country could claim to have a perfect human rights record, and finding fault with others was quite inconsistent with the spirit and indeed the letter of the International Covenants on Human Rights. No single country or group of countries could claim to be more qualified or competent than another to deal with the human rights question. The Commission should foster a frank and genuine exchange of views so as to promote an appreciation of each other's positions. It should take into account the diversity of national experience and the variety of social perspectives to develop positive and constructive ways of promoting the universal enjoyment of all categories of human rights and the adoption of the essential measures by Governments, because it was Governments that were responsible for ensuring respect for human rights.

45. When it asserted the indivisibility of all human rights, his delegation was not looking for alibis to justify failure to respect civil and political rights. It was convinced that democracy was the best guarantor of human rights, but it was also convinced that without economic development, it was impossible to exercise them. Accordingly, if the Commission had a genuine interest in promoting human rights throughout the world, it should emphasize the importance of development. In his delegation's view, the fact that the Commission or any other body confined itself to examining solely the situation of civil and political rights in a Member State was inconsistent with the application of the provisions of the Universal Declaration and of the International Covenants. No one could claim that poverty and need were irrelevant to the enjoyment of human rights.

46. His delegation also deplored the fact that systematic and brutal violations of human rights committed by terrorists and drug traffickers were not given due attention by international bodies and by the Commission, which continued to focus on acts by Governments, many of which were nevertheless combating terrorism to preserve human rights. In his view, if the Commission sincerely wished to protect and promote the fundamental rights of millions of people, it should give a lead in revealing to world public opinion the activities of terrorists and subversive individuals.

47. His delegation then addressed the cases of a number of specific countries in which gross and flagrant human rights violations occurred. It commended the positive developments in South Africa, but nevertheless believed that in so far as apartheid had not yet been dismantled, the international community should remain vigilant until all South Africans were able to live together in

an egalitarian, democratic and non-racial society within the framework of a constitution freely adopted by the citizens of South Africa. In Fiji, it was paradoxical that although the trend of the times was to promote human rights and democracy, the regime in power was endeavouring to institutionalize racial discrimination through a constitution that restricted the rights of part of its population. The international community had an obligation to consider how to do away with that anachronism. Regarding the Middle East, his delegation was convinced that there could be no durable peace in the region until a just and comprehensive settlement of the conflict had been achieved, based on recognition of the inalienable rights of the Palestinian people to a homeland of their own. His delegation also affirmed its solidarity with the people of Cyprus and fully supported the efforts of the Secretary-General to find a solution which would preserve the sovereignty, unity and territorial integrity of that country. Lastly, it called on the Government of Myanmar to accept the verdict of the people and to restore democracy. It earnestly hoped that the Nobel Peace Prize winner, Daw Aung San Suu Kyi, elected representatives of the Myanmar people and other imprisoned political leaders would immediately be released and allowed to take their rightful place in the affairs of their country.

48. The question of human rights should be centred on human beings and on their dignity. At the end of the Commission's session, what would matter was not how many resolutions had been adopted, but what had been done by the Commission, in fulfilment of its essential vocation, to promote the right of all the world's human beings to live in dignity and in freedom from want.